S.B.CIVIL WRIT PETITION NO.6589/2005

Biharilal & Anr.
v.
Parasmal & Ors.

Date of Order :: 11th October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.K.Thanvi, for the petitioners.

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While giving challenge to the order dated 7.9.2005 passed by learned Rent Tribunal, Barmer, contention of counsel for the petitioners is that though under the Rajasthan Rent Control Act, 2001 (hereinafter referred to as "the Act of 2001") the Tribunal is having ample power to adopt its own procedure while adjudicating an application under Section 21, however, in the instant matter the permission granted for availing aid of writing expert is not in interest of justice as that will lead to indefinite continuance of the proceedings. It is further stated that despite availability of an expert report there was no reason to avail service of second expert report. According to counsel for the petitioners learned Rent Tribunal while granting such permission has not given adequate reasons. Reliance is also placed upon the Single Bench judgment of Hon'ble Punjab and Haryana High Court in the case of Kulwant Singh v. Makhan Singh, reported in AIR 1993 Punjab and Haryana 106, holding therein that when the plaintiff

failed to produce hand writing expert at the time of leading evidence in rebuttal he cannot be permitted to produce that at belated stage.

Having considered the arguments, I do not find any substance in the same. The Tribunal in its judicious discretion considered it appropriate to permit the applicant to avail second expert report on the count that he was not having faith in first report. Application of the law laid down in the case of Kulwant Singh (supra) cannot be made in the present case as under the Act of 2001 the Tribunal is having power to adopt its own procedure that is required in interest of justice. The order passed by the Tribunal does not suffer from any error that may be termed as an error touching to jurisdiction. It is also relevant to note that the order impugned was passed much back in the month of September, 2005 and it shall not be appropriate to interfere with the same after a lapse of two years specially in the circumstances that there was no interim order staying proceedings before the Tribunal.

For the reasons above, the writ petition stands dismissed.

(GOVIND MATHUR),J.

Kkm/ps.